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OFFICE OF THE COUNTY AUDITOR INTEROFFICE MEMORANDUM

TO: All Council Members
FROM: Lauren M. Smelkinson, County Auditor
DATE: June 27, 2017
SUBJECT: Addendum to Council Meeting Notes

Please find attached an addendum (FM-10) to the Council Meeting Notes issued June 22, 2017. This item will be discussed at the June 27, 2017 work session for the July 3, 2017 Council meeting.

Attachment

cc: notes distribution list

FM-10 (Contract Amendment)**Council District(s) All****Department of Public Works****Hauling of Waste to Various Transfer Facilities**

The Administration is requesting a second amendment to the County's existing solid waste transportation contract with WB Services, LLC. The amendment, which commenced June 9, 2017, expands the scope of work to add the hauling of municipal solid waste and yard material from the County's Western Acceptance Facility to BRESKO and to the Eastern Sanitary Landfill, respectively, incorporates the pricing for the additional services, and revises the termination clause. The amendment increases the estimated compensation of the contract by \$11,421,807, from \$78,578,193 to \$90,000,000, for the entire 21-year and 9-month term, including the renewal periods. The original contract commenced October 1, 2012.

Fiscal Summary

Funding Source	Contract Amendment	Current Total Compensation	Amended Total Compensation
County ⁽¹⁾	\$ 11,421,807	\$ 78,578,193	\$ 90,000,000
State	--	--	--
Federal	--	--	--
Other	--	--	--
Total	<u>\$ 11,421,807</u> ⁽²⁾	<u>\$ 78,578,193</u>	<u>\$ 90,000,000</u> ⁽³⁾

⁽¹⁾ General Fund Operating Budget.

⁽²⁾ Additional estimated compensation for the entire 21-year and 9-month term, including the renewal periods.

⁽³⁾ Estimated compensation for the entire 21-year and 9-month term, including the renewal periods.
Compensation may not exceed the amount appropriated.

Analysis

The contractor currently transports municipal solid waste (MSW) from County transfer facilities at the Central Acceptance Facility (CAF) in Cockeysville and the Eastern Sanitary Landfill (ESL) in White Marsh to waste disposal sites in York, Pennsylvania (Modern Landfill) and the BRESKO Waste-to-Energy facility in Baltimore City. The contractor maintains a fleet of tractors and a minimum of 31 trailers with tarps. In addition, the contractor conducts dispatch operations from an office located at the CAF. The contractor operates a trucking terminal with sufficient parking spaces and shop facilities for its fleet maintenance and maintains automated records on the management, maintenance, and upkeep of the fleet. The Department advised that the contractor has transferred 168,054 tons of MSW in FY 2017 (invoiced to-date), and estimates that the contractor will transfer 291,914 tons in FY 2018.

The proposed amendment, which commenced June 9, 2017, is necessary due to the County's termination of the Maryland Environmental Services (MES) contract for these services. The amendment expands the scope of work to add the hauling of MSW and yard material from the County's Western Acceptance Facility (WAF) in Halethorpe to BRESKO and to the ESL, respectively. The Department advised that WB Services, LLC (WB) began providing these services on June 12, 2017, with services provided to date valued at approximately \$13,727.

Under the terms of the original contract, the contractor may purchase fuel from the County and pay the County's cost per gallon plus a 5-cent-per-gallon administrative fee. The Department advised that the County's locked-in cost per gallon for diesel fuel for CY 2017 is \$2.14 for the months of July into November and \$2.16 (winter blend) for the remainder of November through December.

The proposed amendment incorporates rates for the transportation costs as follows:

WAF transported to BRESKO (County supplies fuel)	\$11.25/ton
WAF transported to BRESKO (Contractor supplies fuel)	\$11.60/ton
WAF recycle transported to ESL (County supplies fuel)	\$375.00/load
WAF recycle transported to ESL (Contractor supplies fuel)	\$395.00/load
WAF MSW transported to ESL (County supplies fuel)	\$17.86/ton
WAF MSW transported to ESL (Contractor supplies fuel)	\$18.81/ton

The rates include current toll rates, with future toll increases to be passed on as a transportation rate increase, in addition to any already agreed-upon escalation increases.

The proposed amendment also revises the termination clause to provide that the County may terminate the agreement if the contractor breaches or defaults on its obligations, by providing the contractor written notice of the breach or default and the opportunity to cure the breach or default for a period of 60 business days (increased from 30 business days) after delivery of the written notice. The amendment also provides that the County may terminate the agreement if funds are not appropriated.

In addition, the proposed amendment stipulates the following: the County will maintain one yard/jockey truck at WAF for moving trailers, and WB will be responsible for jockeying, moving, and transporting its trailers; the County will allocate a suitable area at WAF for WB to store and maintain its equipment being used for WAF operations; and WB will be reimbursed for demurrage (fees for excessive waiting to dispose) at BRESCO, and any demurrage that is paid by BRESCO to Baltimore County will be paid to WB. All other contract terms and conditions remain the same.

On September 5, 2012, the County entered into a short-term contract not to exceed \$25,000 with WB Services, LLC as an emergency purchase because the previous contractor unexpectedly ceased operations on August 15, 2012. The contract was terminated upon the approval of the current long-term contract. On October 1, 2012, the Council approved the current contract with estimated compensation totaling \$76,649,329 for the 21-year and 9-month term, with compensation limited to the amount appropriated. On October 6, 2014, the Council approved the first amendment to expand the contract's scope of services to include trailer jockey services at the CAF and hydraulic dumping trailer services for the hauling of recycled glass also at the Texas Landfill site, and increasing the estimated compensation by \$1,928,864, from \$76,649,329 to \$78,578,193, for the entire 21-year and 9-month term, including the renewal periods. The proposed second amendment increases the estimated compensation of the contract by \$11,421,807 for the additional services, from \$78,578,193 to \$90,000,000, for the entire 21-year and 9-month term, including the renewal periods.

As noted, the original contract was awarded to WB Services, LLC after the previous contractor ceased operations. WB Services, LLC was the third lowest bidder out of three bids received in response to the initial solicitation; the second lowest bidder did not have the necessary equipment at the time to meet the County's immediate demand for transportation services. The

Department advised that as of June 21, 2017, expenditures under this contract totaled \$11,959,997.

County Charter, Section 715, requires that “any contract must be approved by the County Council before it is executed if the contract is...for services for a term in excess of two years or involving the expenditure of more than \$25,000 per year....”